

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 318**

1     **AN ACT** *to repeal* 980.02 (2) (ag), 980.03 (5), 980.05 (1m), 980.08 (4) (b), 980.08  
2       (5) and 980.10; *to renumber* 978.13 (2) and 980.01 (1); *to renumber and*  
3       *amend* 938.396 (2) (e), 978.043, 980.015 (1), 980.015 (4), 980.03 (4) and 980.04  
4       (2); *to amend* 20.435 (2) (bj), 46.10 (2), 48.396 (1), 48.396 (5) (a) (intro.), 51.30  
5       (3) (a), 51.30 (3) (b), 51.30 (4) (b) 8m., 51.30 (4) (b) 10m., 51.30 (4) (b) 11., 51.375  
6       (1) (a), 51.375 (2) (b), 51.42 (3) (aw) 1. d., 51.61 (1) (o), 109.09 (1), 146.82 (2) (c),  
7       301.03 (19), 301.45 (1g) (dt), 301.45 (3) (a) 3r., 301.45 (3) (b) 3., 301.45 (5) (b) 2.,  
8       756.06 (2) (b), 801.52, 808.04 (3), 808.04 (4), 808.075 (4) (h), 809.10 (1) (d),  
9       809.30 (1) (c), 809.30 (1) (f), 905.04 (4) (a), 911.01 (4) (c), 938.396 (1), 938.396 (5)  
10      (a) (intro.), 938.78 (2) (e), 946.42 (1) (a), 950.04 (1v) (xm), 967.03, 972.15 (4),  
11      978.03 (3), 978.04, 978.045 (1r) (intro.), 978.05 (6) (a), 978.05 (8) (b), 980.01 (5),  
12      980.01 (6) (a), 980.01 (6) (b), 980.01 (6) (c), 980.01 (7), 980.015 (2) (intro.),  
13      980.015 (2) (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (4) (intro.),

980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.04 (5), 980.05 (1),  
980.05 (2), 980.05 (3) (a), 980.05 (3) (b), 980.07 (title), 980.07 (1), 980.07 (2),  
980.07 (3), 980.08 (1), 980.08 (3), 980.08 (4) (a), 980.08 (4) (c), 980.08 (6m),  
980.101 (2) (a), 980.11 (2) (intro.) and 980.12 (1); **to repeal and recreate**  
980.08 (title) and 980.09; and **to create** 48.396 (6), 48.78 (2) (e), 48.981 (7) (a)  
8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125 (2) (ck), 146.82 (2) (cm), 814.61 (1)  
(c) 6., 938.35 (1) (e), 940.20 (1g), 946.42 (3m), 972.15 (6), 978.043 (2), 978.13 (2)  
(a), 980.01 (1b), 980.01 (1j), 980.01 (3), 980.01 (6) (am), 980.01 (6) (bm), 980.01  
(8), 980.01 (9), 980.01 (10), 980.015 (2) (d), 980.02 (1) (b) 3., 980.02 (1m), 980.02  
(6), 980.031 (title), 980.031 (1) and (2), 980.034, 980.036, 980.038, 980.04 (2) (b)  
2., 980.05 (2m), 980.07 (4), (5) and (6), 980.07 (6m), 980.075, 980.08 (4) (cg),  
980.08 (4) (cm), 980.08 (4) (d), (e), (f) and (g), 980.095, 980.14 (title) and 980.14  
(1) of the statutes; **relating to:** the definition of sexually violent person,  
sexually violent person commitment proceedings, criteria for supervised  
release, battery by certain committed persons, escape from custody by a person  
who is subject to a sexually violent person commitment proceeding, and  
providing penalties.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

20.435 (2) (bj) *Competency examinations and conditional and supervised  
release services.* Biennially, the amounts in the schedule for outpatient competency  
examinations and for payment by the department of costs for treatment and services  
for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or  
s. 971.17 (3) (d) or (4) (e) or 980.08 ~~(5)~~ (4) (g), for which the department has contracted

1 with county departments under s. 51.42 (3) (aw) 1. d., with other public agencies, or  
2 with private agencies to provide the treatment and services.

3 **SECTION 2.** 46.10 (2) of the statutes is amended to read:

4 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,  
5 including but not limited to a person admitted, committed or placed under s. 975.01,  
6 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,  
7 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14  
8 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and  
9 supplies provided by any institution in this state including University of Wisconsin  
10 Hospitals and Clinics, in which the state is chargeable with all or part of the person's  
11 care, maintenance, services and supplies, any person receiving care and services  
12 from a county department established under s. 51.42 or 51.437 or from a facility  
13 established under s. 49.73, and any person receiving treatment and services from a  
14 public or private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats.,  
15 or s. 971.17 (3) (d) or (4) (e) or 980.08 ~~(5)~~ (4) (g) and the person's property and estate,  
16 including the homestead, and the spouse of the person, and the spouse's property and  
17 estate, including the homestead, and, in the case of a minor child, the parents of the  
18 person, and their property and estates, including their homestead, and, in the case  
19 of a foreign child described in s. 48.839 (1) who became dependent on public funds  
20 for his or her primary support before an order granting his or her adoption, the  
21 resident of this state appointed guardian of the child by a foreign court who brought  
22 the child into this state for the purpose of adoption, and his or her property and  
23 estate, including his or her homestead, shall be liable for the cost of the care,  
24 maintenance, services and supplies in accordance with the fee schedule established  
25 by the department under s. 46.03 (18). If a spouse, widow or minor, or an

1 incapacitated person may be lawfully dependent upon the property for their support,  
2 the court shall release all or such part of the property and estate from the charges  
3 that may be necessary to provide for those persons. The department shall make  
4 every reasonable effort to notify the liable persons as soon as possible after the  
5 beginning of the maintenance, but the notice or the receipt thereof is not a condition  
6 of liability.

7 **SECTION 3.** 48.396 (1) of the statutes is amended to read:

8 48.396 (1) Law enforcement officers' records of children shall be kept separate  
9 from records of adults. Law enforcement officers' records of the adult expectant  
10 mothers of unborn children shall be kept separate from records of other adults. Law  
11 enforcement officers' records of children and the adult expectant mothers of unborn  
12 children shall not be open to inspection or their contents disclosed except under sub.  
13 (1b), (1d) ~~or~~ (5), or (6) or s. 48.293 or by order of the court. This subsection does not  
14 apply to the representatives of newspapers or other reporters of news who wish to  
15 obtain information for the purpose of reporting news without revealing the identity  
16 of the child or expectant mother involved, to the confidential exchange of information  
17 between the police and officials of the school attended by the child or other law  
18 enforcement or social welfare agencies or to children 10 years of age or older who are  
19 subject to the jurisdiction of the court of criminal jurisdiction. A public school official  
20 who obtains information under this subsection shall keep the information  
21 confidential as required under s. 118.125 and a private school official who obtains  
22 information under this subsection shall keep the information confidential in the  
23 same manner as is required of a public school official under s. 118.125. A law  
24 enforcement agency that obtains information under this subsection shall keep the  
25 information confidential as required under this subsection and s. 938.396 (1). A

1 social welfare agency that obtains information under this subsection shall keep the  
2 information confidential as required under ss. 48.78 and 938.78.

3 **SECTION 4.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

4 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.  
5 (1), (1b) ~~or~~ (1d), or (6) may petition the court to order the disclosure of the records  
6 governed by the applicable subsection. The petition shall be in writing and shall  
7 describe as specifically as possible all of the following:

8 **SECTION 5.** 48.396 (6) of the statutes is created to read:

9 48.396 (6) Records of law enforcement officers and of the court assigned to  
10 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection to  
11 authorized representatives of the department of corrections, the department of  
12 health and family services, the department of justice, or a district attorney for use  
13 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if  
14 the records involve or relate to an individual who is the subject of the proceeding or  
15 evaluation. The court in which the proceeding under ch. 980 is pending may issue  
16 any protective orders that it determines are appropriate concerning information  
17 made available or disclosed under this subsection. Any representative of the  
18 department of corrections, the department of health and family services, the  
19 department of justice, or a district attorney may disclose information obtained under  
20 this subsection for any purpose consistent with any proceeding under ch. 980.

21 **SECTION 6.** 48.78 (2) (e) of the statutes is created to read:

22 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose  
23 information to authorized representatives of the department of corrections, the  
24 department of health and family services, the department of justice, or a district  
25 attorney for use in the prosecution of any proceeding or any evaluation conducted

1 under ch. 980, if the information involves or relates to an individual who is the  
2 subject of the proceeding or evaluation. The court in which the proceeding under ch.  
3 980 is pending may issue any protective orders that it determines are appropriate  
4 concerning information made available or disclosed under this paragraph. Any  
5 representative of the department of corrections, the department of health and family  
6 services, the department of justice, or a district attorney may disclose information  
7 obtained under this paragraph for any purpose consistent with any proceeding under  
8 ch. 980.

9 **SECTION 7.** 48.981 (7) (a) 8s. of the statutes is created to read:

10 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,  
11 the department of health and family services, the department of justice, or a district  
12 attorney for use in the prosecution of any proceeding or any evaluation conducted  
13 under ch. 980, if the reports or records involve or relate to an individual who is the  
14 subject of the proceeding or evaluation. The court in which the proceeding under ch.  
15 980 is pending may issue any protective orders that it determines are appropriate  
16 concerning information made available or disclosed under this subdivision. Any  
17 representative of the department of corrections, the department of health and family  
18 services, the department of justice, or a district attorney may disclose information  
19 obtained under this subdivision for any purpose consistent with any proceeding  
20 under ch. 980.

21 **SECTION 8.** 51.30 (3) (a) of the statutes is amended to read:

22 51.30 (3) (a) Except as provided in pars. (b) ~~and, (bm).~~ (c), and (d), the files and  
23 records of the court proceedings under this chapter shall be closed but shall be  
24 accessible to any individual who is the subject of a petition filed under this chapter.

25 **SECTION 9.** 51.30 (3) (b) of the statutes is amended to read:

1           51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation  
2           counsel shall have access to the files and records of the court proceedings under this  
3           chapter without the individual's consent and without modification of the records in  
4           order to prepare for involuntary commitment or recommitment proceedings,  
5           reexaminations, appeals, or other actions relating to detention, admission, or  
6           commitment under this chapter or ch. 971 ~~or~~ 975, or 980.

7           **SECTION 10.** 51.30 (3) (bm) of the statutes is created to read:

8           51.30 (3) (bm) Authorized representatives of the department of corrections, the  
9           department of health and family services, the department of justice, or a district  
10          attorney shall have access to the files and records of court proceedings under this  
11          chapter for use in the prosecution of any proceeding or any evaluation conducted  
12          under ch. 980, if the files or records involve or relate to an individual who is the  
13          subject of the proceeding or evaluation. The court in which the proceeding under ch.  
14          980 is pending may issue any protective orders that it determines are appropriate  
15          concerning information made available or disclosed under this paragraph. Any  
16          representative of the department of corrections, the department of health and family  
17          services, the department of justice, or a district attorney may disclose information  
18          obtained under this paragraph for any purpose consistent with any proceeding under  
19          ch. 980.

20          **SECTION 11.** 51.30 (4) (b) 8m. of the statutes is amended to read:

21          51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.  
22          971.17 (2) (e), (4) (c),<sub>1</sub> and (7) (c), ~~980.03 (4) or 980.08 (3).~~ The recipient of any  
23          information from the records shall keep the information confidential except as  
24          necessary to comply with s. 971.17 ~~or ch. 980.~~

25          **SECTION 12.** 51.30 (4) (b) 8s. of the statutes is created to read:

1           51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and  
2           to authorized representatives of the department of corrections, the department of  
3           health and family services, the department of justice, or a district attorney for use  
4           in the prosecution of any proceeding or any evaluation conducted under ch. 980, if  
5           the treatment records involve or relate to an individual who is the subject of the  
6           proceeding or evaluation. The court in which the proceeding under ch. 980 is pending  
7           may issue any protective orders that it determines are appropriate concerning  
8           information made available or disclosed under this subdivision. Any representative  
9           of the department of corrections, the department of health and family services, the  
10          department of justice, or a district attorney may disclose information obtained under  
11          this subdivision for any purpose consistent with any proceeding under ch. 980.

12           **SECTION 13.** 51.30 (4) (b) 10m. of the statutes is amended to read:

13           51.30 (4) (b) 10m. To the department of justice or a district attorney under s.  
14           980.015 (3) (b), if the treatment records are maintained by an agency with  
15           jurisdiction, as defined in s. ~~980.015 (1)~~ 980.01 (1d), that has control or custody over  
16           a person who may meet the criteria for commitment as a sexually violent person  
17           under ch. 980.

18           **SECTION 14.** 51.30 (4) (b) 11. of the statutes is amended to read:

19           51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and  
20           the corporation counsel, without modification, at any time in order to prepare for  
21           involuntary commitment or recommitment proceedings, reexaminations, appeals, or  
22           other actions relating to detention, admission, commitment, or patients' rights under  
23           this chapter or ch. 48, 971, ~~or 975,~~ or 980.

24           **SECTION 15.** 51.375 (1) (a) of the statutes is amended to read:



1           51.375 (1) (a) “Community placement” means conditional transfer into the  
2 community under s. 51.35 (1), conditional release under s. 971.17, parole from a  
3 commitment for specialized treatment under ch. 975, or conditional supervised  
4 release under ch. 980.

5           **SECTION 16.** 51.375 (2) (b) of the statutes is amended to read:

6           51.375 (2) (b) The department may administer a lie detector test to a sex  
7 offender as part of the sex offender’s programming, care, or treatment. A patient may  
8 refuse to submit to a lie detector test under this paragraph. This refusal does not  
9 constitute a general refusal to participate in treatment. The results of a lie detector  
10 test under this paragraph may be used only in the care, treatment, or assessment of  
11 the subject or in programming for the subject. The results of a test may be disclosed  
12 only to persons employed at the facility at which the subject is placed who need to  
13 know the results for purposes related to care, treatment, or assessment of the  
14 patient, the committing court, the patient’s attorney, or the attorney representing  
15 the state in a proceeding under ch. 980. The committing court to which the results  
16 of a test have been disclosed may admit the results in evidence in a proceeding under  
17 ch. 980.

18           **SECTION 17.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

19           51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a  
20 conditional release plan approved by a court for a person who is a county resident and  
21 is conditionally released under s. 971.17 (3) or (4) or that are specified in a supervised  
22 release plan approved by a court under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003  
23 stats., or s. 980.08 (5) (4) (g). If the county department provides treatment and  
24 services under this subdivision, the department of health and family services shall,

1 from the appropriation under s. 20.435 (2) (bj), pay the county department for the  
2 costs of the treatment and services.

3 **SECTION 18.** 51.61 (1) (o) of the statutes is amended to read:

4 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or  
5 taped, unless the patient signs an informed and voluntary consent that specifically  
6 authorizes a named individual or group to film or tape the patient for a particular  
7 purpose or project during a specified time period. The patient may specify in such  
8 consent periods during which, or situations in which, the patient may not be filmed  
9 or taped. If a patient is legally incompetent, such consent shall be granted on behalf  
10 of the patient by the patient's guardian. A patient in Goodland Hall at the Mendota  
11 Mental Health Institute, or a patient detained or committed under ch. 980 and  
12 placed in a facility specified under s. 980.065, may be filmed or taped for security  
13 purposes without the patient's consent, except that such a patient may not be filmed  
14 in patient bedrooms or bathrooms ~~for any purpose~~ without the patient's consent  
15 unless the patient is engaged in dangerous or disruptive behavior. A treatment  
16 activity involving a patient committed or detained under ch. 980 may be filmed or  
17 taped if the purpose of the recording is to assess the quality of the treatment activity  
18 or to facilitate clinical supervision of the staff involved in the treatment activity.

19 **SECTION 19.** 109.09 (1) of the statutes is amended to read:

20 109.09 (1) The department shall investigate and attempt equitably to adjust  
21 controversies between employers and employees as to alleged wage claims. The  
22 department may receive and investigate any wage claim which is filed with the  
23 department, or received by the department under s. 109.10 (4), no later than 2 years  
24 after the date the wages are due. The department may, after receiving a wage claim,  
25 investigate any wages due from the employer against whom the claim is filed to any

1 employee during the period commencing 2 years before the date the claim is filed.  
2 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,  
3 104.12 and 229.8275. In pursuance of this duty, the department may sue the  
4 employer on behalf of the employee to collect any wage claim or wage deficiency and  
5 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions  
6 under s. 109.10, the department may refer such an action to the district attorney of  
7 the county in which the violation occurs for prosecution and collection and the  
8 district attorney shall commence an action in the circuit court having appropriate  
9 jurisdiction. Any number of wage claims or wage deficiencies against the same  
10 employer may be joined in a single proceeding, but the court may order separate  
11 trials or hearings. In actions that are referred to a district attorney under this  
12 subsection, any taxable costs recovered by the district attorney shall be paid into the  
13 general fund of the county in which the violation occurs and used by that county to  
14 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office  
15 of the district attorney who prosecuted the action.

16 **SECTION 20.** 118.125 (2) (ck) of the statutes is created to read:

17 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil  
18 records available for inspection or, upon request, disclose the contents of pupil  
19 records to authorized representatives of the department of corrections, the  
20 department of health and family services, the department of justice, or a district  
21 attorney for use in the prosecution of any proceeding or any evaluation conducted  
22 under ch. 980, if the pupil records involve or relate to an individual who is the subject  
23 of the proceeding or evaluation. The court in which the proceeding under ch. 980 is  
24 pending may issue any protective orders that it determines are appropriate  
25 concerning pupil records made available or disclosed under this paragraph. Any

1 representative of the department of corrections, the department of health and family  
2 services, the department of justice, or a district attorney may disclose information  
3 obtained under this paragraph for any purpose consistent with any proceeding under  
4 ch. 980.

5 **SECTION 21.** 146.82 (2) (c) of the statutes is amended to read:

6 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be  
7 released to appropriate examiners and facilities in accordance with ss. s. 971.17 (2)  
8 (e), (4) (c), and (7) (c), ~~980.03 (4) and 980.08 (3)~~. The recipient of any information from  
9 the records shall keep the information confidential except as necessary to comply  
10 with s. 971.17 ~~or ch. 980~~.

11 **SECTION 22.** 146.82 (2) (cm) of the statutes is created to read:

12 146.82 (2) (cm) Notwithstanding sub. (1), patient health care records shall be  
13 released, upon request, to appropriate persons in accordance with s. 980.031 (4) and  
14 to authorized representatives of the department of corrections, the department of  
15 health and family services, the department of justice, or a district attorney for use  
16 in the prosecution of any proceeding or any evaluation conducted under ch. 980, if  
17 the treatment records involve or relate to an individual who is the subject of the  
18 proceeding or evaluation. The court in which the proceeding under ch. 980 is pending  
19 may issue any protective orders that it determines are appropriate concerning  
20 records made available or disclosed under this paragraph. Any representative of the  
21 department of corrections, the department of health and family services, the  
22 department of justice, or a district attorney may disclose information obtained under  
23 this paragraph for any purpose consistent with any proceeding under ch. 980.

24 **SECTION 23.** 301.03 (19) of the statutes is amended to read:

1           301.03 **(19)** Work to minimize, to the greatest extent possible, the residential  
2           population density of sex offenders, as defined in s. 302.116 (1) (b), who are on  
3           probation, parole, or extended supervision or placed on supervised release under s.  
4           980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (5) (4) (g).

5           **SECTION 24.** 301.45 (1g) (dt) of the statutes is amended to read:

6           301.45 **(1g)** (dt) Is in institutional care or on ~~conditional~~ supervised release  
7           under ch. 980 on or after June 2, 1994.

8           **SECTION 25.** 301.45 (3) (a) 3r. of the statutes is amended to read:

9           301.45 **(3)** (a) 3r. If the person has been committed under ch. 980, he or she is  
10          subject to this subsection upon being placed on supervised release under s. 980.06  
11          (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,  
12          before being discharged under s. 980.10, 2003 stats., or s. 980.09 ~~or 980.10~~ (4).

13          **SECTION 26.** 301.45 (3) (b) 3. of the statutes is amended to read:

14          301.45 **(3)** (b) 3. The department of health and family services shall notify a  
15          person who is being placed on conditional release, supervised release, conditional  
16          transfer or parole, or is being terminated or discharged from a commitment, under  
17          s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the  
18          need to comply with the requirements of this section.

19          **SECTION 27.** 301.45 (5) (b) 2. of the statutes is amended to read:

20          301.45 **(5)** (b) 2. The person has been found to be a sexually violent person under  
21          ch. 980, regardless of whether the person is has been discharged under s. 980.10,  
22          2003 stats., or s. 980.09 ~~or 980.10~~ (4) from the sexually violent person commitment,  
23          except that the person no longer has to comply with this section if the finding that  
24          the person is a sexually violent person has been reversed, set aside or vacated.

25          **SECTION 28.** 756.06 (2) (b) of the statutes is amended to read:

1           756.06 (2) (b) Except as provided in par. (c) and ss. 980.05 (2) and (2m) (c).  
2           980.09 (3), and 980.095 (1), a jury in a civil case shall consist of 6 persons unless a  
3           party requests a greater number, not to exceed 12. The court, on its own motion, may  
4           require a greater number, not to exceed 12.

5           **SECTION 29.** 801.52 of the statutes is amended to read:

6           **801.52 Discretionary change of venue.** The court may at any time, upon  
7           its own motion, the motion of a party or the stipulation of the parties, change the  
8           venue to any county in the interest of justice or for the convenience of the parties or  
9           witnesses. This section does not apply to proceedings under ch. 980.

10          **SECTION 30.** 808.04 (3) of the statutes is amended to read:

11          808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case  
12          or a case under ch. 48, 51, 55 ~~or~~ 938, or 980 shall be initiated within the time period  
13          specified in s. 809.30.

14          **SECTION 31.** 808.04 (4) of the statutes is amended to read:

15          808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a  
16          criminal case under s. 974.05 or a case under ch. 48 ~~or~~ 938, or 980 shall be initiated  
17          within 45 days of entry of the judgment or order appealed from.

18          **SECTION 32.** 808.075 (4) (h) of the statutes is amended to read:

19          808.075 (4) (h) Commitment, supervised release, recommitment, discharge,  
20          and postcommitment relief under s. 980.10, 2003 stats., or ss. 980.06, 980.08, 980.09,  
21          980.10 (4), and 980.101 of a person found to be a sexually violent person under ch.  
22          980.

23          **SECTION 33.** 809.10 (1) (d) of the statutes is amended to read:

24          809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals  
25          an original and one copy of a completed docketing statement on a form prescribed by

1 the court of appeals. The docketing statement shall accompany the court of appeals’  
2 copy of the notice of appeal. The person shall send a copy of the completed docketing  
3 statement to the other parties to the appeal. Docketing statements need not be filed  
4 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under  
5 ch. 980, or in cases in which a party represents himself or herself. Docketing  
6 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the  
7 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,  
8 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,  
9 or 938.

10 **SECTION 34.** 809.30 (1) (c) of the statutes is amended to read:

11 809.30 (1) (c) “Postconviction relief” means an appeal or a motion for  
12 postconviction relief in a criminal case, other than an appeal, motion, or petition  
13 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.  
14 980 case, the term means an appeal or a motion for postcommitment relief under s.  
15 980.038 (4).

16 **SECTION 35.** 809.30 (1) (f) of the statutes is amended to read:

17 809.30 (1) (f) “Sentencing” means the imposition of a sentence, a fine, or  
18 probation in a criminal case. In a ch. 980 case, the term means the entry of an order  
19 under s. 980.06.

20 **SECTION 36.** 814.61 (1) (c) 6. of the statutes is created to read:

21 814.61 (1) (c) 6. An action to commit a person under ch. 51, 55, or 980.

22 **SECTION 37.** 905.04 (4) (a) of the statutes is amended to read:

23 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective*  
24 *services, or protective placement or for control, care, or treatment of a sexually violent*  
25 *person.* There is no privilege under this rule as to communications and information



1 relevant to an issue in proceedings to hospitalize the patient for mental illness, to  
2 appoint a guardian under s. 880.33, for court-ordered protective services or  
3 protective placement ~~or~~, for review of guardianship, protective services, or protective  
4 placement orders, or for control, care, or treatment of a sexually violent person under  
5 ch. 980, if the physician, registered nurse, chiropractor, psychologist, social worker,  
6 marriage and family therapist, or professional counselor in the course of diagnosis  
7 or treatment has determined that the patient is in need of hospitalization,  
8 guardianship, protective services, or protective placement or control, care, and  
9 treatment as a sexually violent person.

10 **SECTION 38.** 911.01 (4) (c) of the statutes is amended to read:

11 911.01 **(4)** (c) *Miscellaneous proceedings.* Proceedings for extradition or  
12 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
13 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195  
14 (1r), issuance of arrest warrants, criminal summonses and search warrants;  
15 hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c); proceedings with  
16 respect to pretrial release under ch. 969 except where habeas corpus is utilized with  
17 respect to release on bail or as otherwise provided in ch. 969.

18 **SECTION 39.** 938.35 (1) (e) of the statutes is created to read:

19 938.35 **(1)** (e) In a hearing, trial, or other proceeding under ch. 980.

20 **SECTION 40.** 938.396 (1) of the statutes is amended to read:

21 938.396 **(1)** Law enforcement officers' records of juveniles shall be kept  
22 separate from records of adults. Law enforcement officers' records of juveniles shall  
23 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),  
24 (1m), (1r), (1t), (1x) ~~or~~, (5), or (10) or s. 938.293 or by order of the court. This  
25 subsection does not apply to representatives of the news media who wish to obtain



1 information for the purpose of reporting news without revealing the identity of the  
2 juvenile involved, to the confidential exchange of information between the police and  
3 officials of the school attended by the juvenile or other law enforcement or social  
4 welfare agencies, or to juveniles 10 years of age or older who are subject to the  
5 jurisdiction of the court of criminal jurisdiction. A public school official who obtains  
6 information under this subsection shall keep the information confidential as  
7 required under s. 118.125 and a private school official who obtains information under  
8 this subsection shall keep the information confidential in the same manner as is  
9 required of a public school official under s. 118.125. A law enforcement agency that  
10 obtains information under this subsection shall keep the information confidential as  
11 required under this subsection and s. 48.396 (1). A social welfare agency that obtains  
12 information under this subsection shall keep the information confidential as  
13 required under ss. 48.78 and 938.78.

14 **SECTION 41.** 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and  
15 amended to read:

16 938.396 (10) ~~Upon request of the department of corrections to review court A~~  
17 ~~law enforcement agency's records and records for the purpose of providing, under s.~~  
18 ~~980.015 (3) (a) of the court assigned to exercise jurisdiction under this chapter and~~  
19 ~~ch. 48 shall be open for inspection by authorized representatives of the department~~  
20 ~~of corrections, the department of health and family services, the department of~~  
21 ~~justice, or a district attorney with a person's offense history, the court shall open for~~  
22 ~~inspection by authorized representatives of the department of corrections the~~  
23 ~~records of the court relating to any juvenile who has been adjudicated delinquent for~~  
24 ~~a sexually violent offense, as defined in s. 980.01 (6) for use in the prosecution of any~~  
25 ~~proceeding or any evaluation conducted under ch. 980, if the records involve or relate~~

1 to an individual who is the subject of the proceeding or evaluation. The court in  
2 which the proceeding under ch. 980 is pending may issue any protective orders that  
3 it determines are appropriate concerning information made available or disclosed  
4 under this subsection. Any representative of the department of corrections, the  
5 department of health and family services, the department of justice, or a district  
6 attorney may disclose information obtained under this subsection for any purpose  
7 consistent with any proceeding under ch. 980.

8 **SECTION 42.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

9 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.  
10 (1), (1b), (1d), (1g), (1m), (1r) ~~or~~ (1t), or (10) may petition the court to order the  
11 disclosure of the records governed by the applicable subsection. The petition shall  
12 be in writing and shall describe as specifically as possible all of the following:

13 **SECTION 43.** 938.78 (2) (e) of the statutes is amended to read:

14 938.78 (2) (e) ~~Paragraph (a) does not prohibit the department from disclosing~~  
15 Notwithstanding par. (a), an agency shall, upon request, disclose information about  
16 ~~an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent~~  
17 ~~offense, as defined in s. 980.01 (6), to~~ authorized representatives of the department  
18 of corrections, the department of health and family services, the department of  
19 justice, or a district attorney or a judge acting under ch. 980 or to an attorney who  
20 represents a person subject to a petition for use in the prosecution of any proceeding  
21 or any evaluation conducted under ch. 980, if the information involves or relates to  
22 an individual who is the subject of the proceeding or evaluation. The court in which  
23 the ~~petition proceeding~~ proceeding under s. ~~980.02 is filed~~ ch. 980 is pending may issue any  
24 protective orders that it determines are appropriate concerning information  
25 disclosed under this paragraph. Any representative of the department of

1 corrections, the department of health and family services, the department of justice,  
2 or a district attorney may disclose information obtained under this paragraph for any  
3 purpose consistent with any proceeding under ch. 980.

4 **SECTION 44.** 940.20 (1g) of the statutes is created to read:

5 940.20 **(1g)** BATTERY BY CERTAIN COMMITTED PERSONS. Any person placed in a  
6 facility under s. 980.065 and who intentionally causes bodily harm to an officer,  
7 employee, agent, visitor, or other resident of the facility, without his or her consent,  
8 is guilty of a Class H felony.

9 **SECTION 45.** 946.42 (1) (a) of the statutes is amended to read:

10 946.42 **(1)** (a) “Custody” includes without limitation actual custody of an  
11 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a  
12 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,  
13 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),  
14 a Type 2 child caring institution, as defined in s. 938.02 (19r), a facility used for the  
15 detention of persons detained under s. 980.04 (1), a facility specified in s. 980.065,  
16 or a juvenile portion of a county jail, or actual custody of a peace officer or institution  
17 guard. “Custody” also includes the constructive custody of persons placed on  
18 supervised release under ch. 980 and constructive custody of prisoners and juveniles  
19 subject to an order under s. 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4)  
20 or (5) (e) temporarily outside the institution whether for the purpose of work, school,  
21 medical care, a leave granted under s. 303.068, a temporary leave or furlough  
22 granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation,  
23 that of the sheriff of the county to which the prisoner was transferred after  
24 conviction. It does not include the custody of a probationer, parolee or person on  
25 extended supervision by the department of corrections or a probation, extended

1 supervision or parole officer or the custody of a person who has been released to  
2 aftercare supervision under ch. 938 unless the person is in actual custody or is  
3 subject to a confinement order under s. 973.09 (4).

4 **SECTION 46.** 946.42 (3m) of the statutes is created to read:

5 946.42 **(3m)** A person who intentionally escapes from custody under any of the  
6 following circumstances is guilty of a Class F felony:

7 (a) While subject to a detention order under s. 980.04 (1) or a custody order  
8 under s. 980.04 (3).

9 (b) While subject to an order issued under s. 980.06 committing the person to  
10 custody of the department of health and family services, regardless of whether the  
11 person is placed in institutional care or on supervised release.

12 **SECTION 47.** 950.04 (1v) (xm) of the statutes is amended to read:

13 950.04 **(1v)** (xm) To have the department of health and family services make  
14 a reasonable attempt to notify the victim under s. 980.11 regarding supervised  
15 release under s. 980.08 and discharge under s. 980.09 ~~or 980.10~~ (4).

16 **SECTION 48.** 967.03 of the statutes is amended to read:

17 **967.03 District attorneys.** Wherever in chs. 967 to ~~979~~ 980 powers or duties  
18 are imposed upon district attorneys, the same powers and duties may be discharged  
19 by any of their duly qualified deputies or assistants.

20 **SECTION 49.** 972.15 (4) of the statutes is amended to read:

21 972.15 **(4)** After sentencing, unless otherwise authorized under sub. (5) ~~or (6)~~  
22 or ordered by the court, the presentence investigation report shall be confidential  
23 and shall not be made available to any person except upon specific authorization of  
24 the court.

25 **SECTION 50.** 972.15 (6) of the statutes is created to read:

1           972.15 **(6)** The presentence investigation report and any information contained  
2 in it or upon which it is based may be used by any of the following persons in any  
3 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,  
4 appeal, or other proceeding under ch. 980:

5           (a) The department of corrections.

6           (b) The department of health and family services.

7           (c) The person who is the subject of the presentence investigation report, his  
8 or her attorney, or an agent or employee of the attorney.

9           (d) The attorney representing the state or an agent or employee of the attorney.

10          (e) A licensed physician, licensed psychologist, or other mental health  
11 professional who is examining the subject of the presentence investigation report.

12          (f) The court and, if applicable, the jury hearing the case.

13          **SECTION 51.** 978.03 (3) of the statutes, as affected by 2005 Wisconsin Act 25,  
14 is amended to read:

15          978.03 **(3)** Any assistant district attorney under sub. (1), (1m), or (2) must be  
16 an attorney admitted to practice law in this state and, except as provided in s.  
17 978.043 (1), may perform any duty required by law to be performed by the district  
18 attorney. The district attorney of the prosecutorial unit under sub. (1), (1m), or (2)  
19 may appoint such temporary counsel as may be authorized by the department of  
20 administration.

21          **SECTION 52.** 978.04 of the statutes is amended to read:

22          **978.04 Assistants in certain prosecutorial units.** The district attorney of  
23 any prosecutorial unit having a population of less than 100,000 may appoint one or  
24 more assistant district attorneys as necessary to carry out the duties of his or her  
25 office and as may be requested by the department of administration authorized in

1 accordance with s. 16.505. Any such assistant district attorney must be an attorney  
2 admitted to practice law in this state and, except as provided in s. 978.043 (1), may  
3 perform any duty required by law to be performed by the district attorney.

4 **SECTION 53.** 978.043 of the statutes is renumbered 978.043 (1) and amended  
5 to read.

6 978.043 **(1)** The district attorney of the prosecutorial unit that consists of  
7 Brown County and the district attorney of the prosecutorial unit that consists of  
8 Milwaukee County shall each assign one assistant district attorney in his or her  
9 prosecutorial unit to be a sexually violent person commitment prosecutor. An  
10 assistant district attorney assigned under this ~~section~~ subsection to be a sexually  
11 violent person commitment prosecutor may engage only in the prosecution of  
12 sexually violent person commitment proceedings under ch. 980 and, at the request  
13 of the district attorney of the prosecutorial unit, may file and prosecute sexually  
14 violent person commitment proceedings under ch. 980 in any prosecutorial unit in  
15 this state.

16 **SECTION 54.** 978.043 (2) of the statutes is created to read:

17 978.043 **(2)** If an assistant district attorney assigned under sub. (1) prosecutes  
18 or assists in the prosecution of a case under ch. 980 in a prosecutorial unit other than  
19 his or her own, the prosecutorial unit in which the case is heard shall reimburse the  
20 assistant district attorney's own prosecutorial unit for his or her reasonable costs  
21 associated with the prosecution, including transportation, lodging, and meals.  
22 Unless otherwise agreed upon by the prosecutorial units involved, the court hearing  
23 the case shall determine the amount of money to be reimbursed for expert witness  
24 fees under this subsection.

25 **SECTION 55.** 978.045 (1r) (intro.) of the statutes is amended to read:

1           978.045 **(1r)** (intro.) Any judge of a court of record, by an order entered in the  
2       record stating the cause ~~therefor~~ for it, may appoint an attorney as a special  
3       prosecutor to perform, for the time being, or for the trial of the accused person, the  
4       duties of the district attorney. An attorney appointed under this subsection shall  
5       have all of the powers of the district attorney. The judge may appoint an attorney  
6       as a special prosecutor at the request of a district attorney to assist the district  
7       attorney in the prosecution of persons charged with a crime, in grand jury or John  
8       Doe proceedings, in proceedings under ch. 980, or in investigations. The judge may  
9       appoint an attorney as a special prosecutor if any of the following conditions exists:

10           **SECTION 56.** 978.05 (6) (a) of the statutes is amended to read:

11           978.05 **(6)** (a) Institute, commence or appear in all civil actions or special  
12       proceedings under and perform the duties set forth for the district attorney under ch.  
13       980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92  
14       (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),  
15       946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in  
16       connection with court proceedings in a court assigned to exercise jurisdiction under  
17       chs. 48 and 938 as the judge may request and perform all appropriate duties and  
18       appear if the district attorney is designated in specific statutes, including matters  
19       within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits  
20       the authority of the county board to designate, under s. 48.09 (5), that the corporation  
21       counsel provide representation as specified in s. 48.09 (5) or to designate, under s.  
22       48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the  
23       interests of the public under s. 48.14 or 938.14.

24           **SECTION 57.** 978.05 (8) (b) of the statutes, as affected by 2005 Wisconsin Act 25,  
25       is amended to read:



1           978.05 **(8)** (b) Hire, employ, and supervise his or her staff and, subject to s.  
2           978.043 (1), make appropriate assignments of the staff throughout the prosecutorial  
3           unit. The district attorney may request the assistance of district attorneys, deputy  
4           district attorneys, or assistant district attorneys from other prosecutorial units or  
5           assistant attorneys general who then may appear and assist in the investigation and  
6           prosecution of any matter for which a district attorney is responsible under this  
7           chapter in like manner as assistants in the prosecutorial unit and with the same  
8           authority as the district attorney in the unit in which the action is brought. Nothing  
9           in this paragraph limits the authority of counties to regulate the hiring, employment,  
10          and supervision of county employees.

11          **SECTION 58.** 978.13 (2) of the statutes is renumbered 978.13 (2) (b).

12          **SECTION 59.** 978.13 (2) (a) of the statutes is created to read:

13          978.13 **(2)** (a) In this subsection, “costs related to the operation of the district  
14          attorney’s office” include costs that a prosecutorial unit must pay under s. 978.043  
15          (2) but do not include costs for which a prosecutorial unit receives reimbursement  
16          under s. 978.043 (2).

17          **SECTION 60.** 980.01 (1) of the statutes is renumbered 980.01 (1h).

18          **SECTION 61.** 980.01 (1b) of the statutes is created to read:

19          980.01 **(1b)** “Act of sexual violence” means conduct that constitutes the  
20          commission of a sexually violent offense.

21          **SECTION 62.** 980.01 (1j) of the statutes is created to read:

22          980.01 **(1j)** “Incarceration” includes confinement in a secured correctional  
23          facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined  
24          in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), if the person



1 was placed in the facility for being adjudicated delinquent under s. 48.34, 1993 stats.,  
2 or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

3 **SECTION 63.** 980.01 (3) of the statutes is created to read:

4 980.01 (3) Except in ss. 980.075, 980.09, and 980.095, “petitioner” means the  
5 agency or person that filed a petition under s. 980.02.

6 **SECTION 64.** 980.01 (5) of the statutes is amended to read:

7 980.01 (5) “Sexually motivated” means that one of the purposes for an act is  
8 for the actor’s sexual arousal or gratification or for the sexual humiliation or  
9 degradation of the victim.

10 **SECTION 65.** 980.01 (6) (a) of the statutes is amended to read:

11 980.01 (6) (a) Any crime specified in s. 940.225 (1) ~~or~~ (2), or (3), 948.02 (1) or  
12 (2), 948.025, 948.06, or 948.07.

13 **SECTION 66.** 980.01 (6) (am) of the statutes is created to read:

14 980.01 (6) (am) An offense that, prior to June 2, 1994, was a crime under the  
15 law of this state and that is comparable to any crime specified in par. (a).

16 **SECTION 67.** 980.01 (6) (b) of the statutes is amended to read:

17 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,  
18 940.19 (2), (4) ~~or~~ (5), or (6), 940.195 (4) or (5), 940.30, 940.305, 940.31 ~~or~~ 941.32,  
19 943.10, 943.32, or 948.03 that is determined, in a proceeding under s. 980.05 (3) (b),  
20 to have been sexually motivated.

21 **SECTION 68.** 980.01 (6) (bm) of the statutes is created to read:

22 980.01 (6) (bm) An offense that, prior to June 2, 1994, was a crime under the  
23 law of this state, that is comparable to any crime specified in par. (b) and that is  
24 determined, in a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

25 **SECTION 69.** 980.01 (6) (c) of the statutes is amended to read:

1           980.01 **(6)** (c) Any solicitation, conspiracy, or attempt to commit a crime under  
2 par. (a) ~~or~~, (am), (b), or (bm).

3           **SECTION 70.** 980.01 (7) of the statutes is amended to read:

4           980.01 **(7)** “Sexually violent person” means a person who has been convicted  
5 of a sexually violent offense, has been adjudicated delinquent for a sexually violent  
6 offense, or has been found not guilty of or not responsible for a sexually violent  
7 offense by reason of insanity or mental disease, defect, or illness, and who is  
8 dangerous because he or she suffers from a mental disorder that makes it likely that  
9 the person will engage in one or more acts of sexual violence.

10          **SECTION 71.** 980.01 (8) of the statutes is created to read:

11          980.01 **(8)** “Significant progress in treatment” means that the person has done  
12 all of the following:

13           (a) Meaningfully participated in the treatment program specifically designed  
14 to reduce his or her risk to reoffend offered at a facility described under s. 980.065.

15           (b) Participated in the treatment program at a level that was sufficient to allow  
16 the identification of his or her specific treatment needs and then demonstrated,  
17 through overt behavior, a willingness to work on addressing the specific treatment  
18 needs.

19           (c) Demonstrated an understanding of the thoughts, attitudes, emotions,  
20 behaviors, and sexual arousal linked to his or her sexual offending and an ability to  
21 identify when the thoughts, emotions, behaviors, or sexual arousal occur.

22           (d) Demonstrated sufficiently sustained change in the thoughts, attitudes,  
23 emotions, and behaviors and sufficient management of sexual arousal such that one  
24 could reasonably assume that, with continued treatment, the change could be  
25 maintained.

1       **SECTION 72.** 980.01 (9) of the statutes is created to read:

2       980.01 **(9)** “Substantially probable” means much more likely than not.

3       **SECTION 72m.** 980.01 (10) of the statutes is created to read:

4       980.01 **(10)** “Treating professional” means a licensed physician, licensed  
5       psychologist, licensed social worker, or other mental health professional who  
6       provides, or supervises the provision of, sex offender treatment at a facility described  
7       under s. 980.065.

8       **SECTION 73.** 980.015 (1) of the statutes is renumbered 980.01 (1d) and amended  
9       to read:

10       980.01 **(1d)** ~~In this section, “agency~~ “Agency with jurisdiction” means the  
11       agency with the authority or duty to release or discharge the person.

12       **SECTION 74.** 980.015 (2) (intro.) of the statutes is amended to read:

13       980.015 **(2)** (intro.) If an agency with jurisdiction has control or custody over  
14       a person who may meet the criteria for commitment as a sexually violent person, the  
15       agency with jurisdiction shall inform each appropriate district attorney and the  
16       department of justice regarding the person as soon as possible beginning ~~3 months~~  
17       90 days prior to the applicable date of the following:

18       **SECTION 75.** 980.015 (2) (a) of the statutes is amended to read:

19       980.015 **(2)** (a) The anticipated discharge ~~from a sentence, anticipated or~~  
20       release, on parole or, extended supervision, or anticipated release otherwise, from a  
21       sentence of imprisonment of a person who has been convicted of or term of  
22       confinement in prison that was imposed for a conviction for a sexually violent offense,  
23       from a continuous term of incarceration, any part of which was imposed for a sexually  
24       violent offense, or from a placement in a Type 1 prison under s. 301.048 (3) (a) 1., any  
25       part of which was required as a result of a conviction for a sexually violent offense.

**SECTION 76.** 980.015 (2) (b) of the statutes is amended to read:

980.015 **(2)** (b) The anticipated release from a secured correctional facility, as defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), ~~of a~~ if the person was placed in the facility as a result of being adjudicated delinquent under s. 48.34, 1993 stats., or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

**SECTION 77.** 980.015 (2) (c) of the statutes is amended to read:

980.015 **(2)** (c) The anticipated release of a person on conditional release under s. 971.17, the anticipated termination of a commitment order under 971.17, or the anticipated discharge of a person from a commitment order under s. 971.17, if the person who has been found not guilty of a sexually violent offense by reason of mental disease or defect under s. 971.17.

**SECTION 78.** 980.015 (2) (d) of the statutes is created to read:

980.015 **(2)** (d) The anticipated release on parole or discharge of a person committed under ch. 975 for a sexually violent offense.

**SECTION 79.** 980.015 (4) of the statutes is renumbered 980.14 (2) and amended to read:

980.14 **(2)** Any agency or officer, employee, or agent of an agency is immune from criminal or civil liability for any acts or omissions as the result of a good faith effort to comply with any provision of this section chapter.

**SECTION 80.** 980.02 (1) (a) of the statutes is amended to read:

980.02 **(1)** (a) The department of justice at the request of the agency with jurisdiction, ~~as defined in s. 980.015 (1),~~ over the person. ~~If the department of justice decides to file a petition under this paragraph, it shall file the petition before the date of the release or discharge of the person.~~

1           **SECTION 81.** 980.02 (1) (b) 3. of the statutes is created to read:

2           980.02 **(1)** (b) 3. The county in which the person is in custody under a sentence,  
3 a placement to a secured correctional facility, as defined in s. 938.02 (15m), a secured  
4 child caring institution, as defined in s. 938.02 (15g), or a secured group home, as  
5 defined in s. 938.02 (15p), or a commitment order.

6           **SECTION 82.** 980.02 (1m) of the statutes is created to read:

7           980.02 **(1m)** A petition filed under this section shall be filed before the person  
8 is released or discharged.

9           **SECTION 83.** 980.02 (2) (ag) of the statutes is repealed.

10          **SECTION 84.** 980.02 (4) (intro.) of the statutes is amended to read:

11          980.02 **(4)** (intro.) A petition under this section shall be filed in any one of the  
12 following:

13          **SECTION 85.** 980.02 (6) of the statutes is created to read:

14          980.02 **(6)** A court assigned to exercise jurisdiction under chs. 48 and 938 does  
15 not have jurisdiction over a petition filed under this section alleging that a person  
16 who was adjudicated delinquent as a child is a sexually violent person.

17          **SECTION 86.** 980.03 (2) (intro.) of the statutes is amended to read:

18          980.03 **(2)** (intro.) Except as provided in ss. 980.09 ~~(2) (a)~~ 980.038 (2) and  
19 ~~980.10~~ 980.09 and without limitation by enumeration, at any hearing under this  
20 chapter, the person who is the subject of the petition has the right to:

21          **SECTION 87.** 980.03 (3) of the statutes is amended to read:

22          980.03 **(3)** The person who is the subject of the petition, the person's attorney,  
23 or the department of justice or the district attorney petitioner may request that a  
24 trial under s. 980.05 be to a jury of 12. A request for a jury trial shall be made as  
25 provided under s. 980.05 (2). Notwithstanding s. 980.05 (2), if the person, the

1 person's attorney, or the department of justice or the district attorney petitioner does  
2 not request a jury trial, the court may on its own motion require that the trial be to  
3 a jury of 12. The jury shall be selected as provided under s. 980.05 (2m). A verdict  
4 of a jury under this chapter is not valid unless it is unanimous.

5 **SECTION 88.** 980.03 (4) of the statutes is renumbered 980.031 (3) and amended  
6 to read:

7 980.031 (3) Whenever a person who is the subject of a petition filed under s.  
8 980.02 or who has been committed under s. 980.06 is required to submit to an  
9 examination of his or her mental condition under this chapter, he or she may retain  
10 experts or a licensed physician, licensed psychologist, or other mental health  
11 professional persons to perform an examination. If the person is indigent, the court  
12 shall, upon the person's request, appoint a qualified and available licensed  
13 physician, licensed psychologist, or other mental health professional to perform an  
14 examination of the person's mental condition and participate on the person's behalf  
15 in a trial or other proceeding under this chapter at which testimony is authorized.  
16 Upon the order of the circuit court, the county shall pay, as part of the costs of the  
17 action, the costs of a licensed physician, licensed psychologist, or other mental health  
18 professional appointed by a court under this subsection to perform an examination  
19 and participate in the trial or other proceeding on behalf of an indigent person.

20 (4) If the person a party retains a qualified expert or the court appoints a  
21 licensed physician, licensed psychologist, or other mental health professional person  
22 of his or her own choice to conduct an examination under this chapter of the person's  
23 mental condition, the examiner shall have reasonable access to the person for the  
24 purpose of the examination, as well as to the person's past and present treatment  
25 records, as defined in s. 51.30 (1) (b), and patient health care records as provided

1 under s. 146.82 (2) (c). ~~If the person is indigent, the court shall, upon the person's~~  
2 ~~request, appoint a qualified and available expert or professional person to perform~~  
3 ~~an examination and participate in the trial or other proceeding on the person's~~  
4 ~~behalf. Upon the order of the circuit court, the county shall pay, as part of the costs~~  
5 ~~of the action, the costs of an expert or professional person appointed by a court under~~  
6 ~~this subsection to perform an examination and participate in the trial or other~~  
7 ~~proceeding on behalf of an indigent person. An expert (cm), past and present juvenile~~  
8 ~~records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)~~  
9 ~~(e), and the person's past and present correctional records, including presentence~~  
10 ~~investigation reports under s. 972.15 (6).~~

11 (5) A licensed physician, licensed psychologist, or other mental health  
12 professional person appointed to assist an indigent person who is subject to a petition  
13 who is expected to be called as a witness by one of the parties or by the court may not  
14 be subject to any order by the court for the sequestration of witnesses at any  
15 proceeding under this chapter. No licensed physician, licensed psychologist, or other  
16 mental health professional who is expected to be called as a witness by one of the  
17 parties or by the court may testify at any proceeding under this chapter unless a  
18 written report of his or her examination has been submitted to the court and to both  
19 parties at least 10 days before the proceeding.

20 **SECTION 89.** 980.03 (5) of the statutes is repealed.

21 **SECTION 90.** 980.031 (title) of the statutes is created to read:

22 **980.031 (title) Examinations.**

23 **SECTION 91.** 980.031 (1) and (2) of the statutes are created to read:

24 980.031 (1) If a person who is the subject of a petition filed under s. 980.02  
25 denies the facts alleged in the petition, the court may appoint at least one qualified



1 licensed physician, licensed psychologist, or other mental health professional to  
2 conduct an examination of the person's mental condition and testify at trial.

3       **(2)** The state may retain a licensed physician, licensed psychologist, or other  
4 mental health professional to examine the mental condition of a person who is the  
5 subject of a petition under s. 980.02 or who has been committed under s. 980.06 and  
6 to testify at trial or at any other proceeding under this chapter at which testimony  
7 is authorized.

8       **SECTION 92.** 980.034 of the statutes is created to read:

9       **980.034 Change of place of trial or jury from another county.** **(1)** A  
10 person who is the subject of a petition filed under s. 980.02 or who has been  
11 committed under this chapter may move to change the place of a jury trial under s.  
12 980.05 on the ground that an impartial trial cannot be had in the county in which the  
13 trial is set to be held. The motion shall be made within 20 days after the completion  
14 or waiver of the probable cause hearing under s. 980.04 (2), whichever is applicable,  
15 except that it may be made after that time for cause.

16       **(2)** The motion shall be in writing and supported by affidavit which shall state  
17 evidentiary facts showing the nature of the prejudice alleged. The petitioner may file  
18 counter affidavits.

19       **(3)** If the court determines that there exists in the county where the action is  
20 pending such prejudice that a fair trial cannot be had, it shall, except as provided in  
21 sub. (4), order that the trial be held in any county where an impartial trial can be had.  
22 Only one change may be granted under this subsection. The judge who orders the  
23 change in the place of trial shall preside at the trial. Preliminary matters before trial  
24 may be conducted in either county at the discretion of the court.



1           **(4)** (a) Instead of changing the place of trial under sub. (3), the court may  
2 require the selection of a jury under par. (b) if all of the following apply:

- 3           1. The court will sequester the jurors during the trial.  
4           2. There are grounds for changing the place of trial under sub. (1).  
5           3. The estimated cost to the county of using the procedure under this subsection  
6 is less than the estimated cost to the county of holding the trial in another county.

7           (b) A court that proceeds under this subsection shall follow the procedure under  
8 sub. (3) until the jury is chosen in the 2nd county. At that time, the proceedings shall  
9 return to the original county using the jurors selected in the 2nd county. The original  
10 county shall reimburse the 2nd county for all applicable costs under s. 814.22.

11           **SECTION 93.** 980.036 of the statutes is created to read:

12           **980.036 Discovery and inspection. (1) DEFINITIONS.** In this section:

13           (a) “Person subject to this chapter” means a person who is subject to a petition  
14 filed under s. 980.02 or a person who has been committed under s. 980.06.

15           (b) “Prosecuting attorney” means an attorney representing the state in a  
16 proceeding under this chapter.

17           **(2) WHAT A PROSECUTING ATTORNEY MUST DISCLOSE TO A PERSON SUBJECT TO THIS**  
18 **CHAPTER.** Upon demand, a prosecuting attorney shall disclose to a person subject to  
19 this chapter or his or her attorney, and permit the person subject to this chapter or  
20 his or her attorney to inspect and copy or photograph, all of the following materials  
21 and information, if the material or information is within the possession, custody, or  
22 control of the state:

23           (a) Any written or recorded statement made by the person subject to this  
24 chapter concerning the allegations in the petition filed under s. 980.02 or concerning

1 other matters at issue in the trial or proceeding and the names of witnesses to the  
2 written statements of the person subject to this chapter.

3 (b) A written summary of all oral statements of the person subject to this  
4 chapter that the prosecuting attorney plans to use at the trial or proceeding and the  
5 names of witnesses to the oral statements of the person subject to this chapter.

6 (c) Evidence obtained in the manner described under s. 968.31 (2) (b), if the  
7 prosecuting attorney intends to use the evidence at the trial or proceeding.

8 (d) A copy of the criminal record of the person subject to this chapter.

9 (e) A list of all witnesses whom the prosecuting attorney intends to call at the  
10 trial or proceeding, together with their addresses. This paragraph does not apply to  
11 rebuttal witnesses or witnesses called for impeachment only.

12 (f) Any relevant written or recorded statements of a witness listed under par.  
13 (e), including all of the following:

14 1. Any videotaped oral statement of a child under s. 908.08.

15 2. Any reports prepared in accordance with s. 980.031 (5).

16 (g) The criminal record of a witness listed under par. (e) that is known to the  
17 prosecuting attorney.

18 (h) The results of any physical or mental examination or any scientific or  
19 psychological test, instrument, experiment, or comparison that the prosecuting  
20 attorney intends to offer in evidence at the trial or proceeding, and any raw data that  
21 were collected, used, or considered in any manner as part of the examination, test,  
22 instrument, experiment, or comparison.

23 (i) Any physical or documentary evidence that the prosecuting attorney intends  
24 to offer in evidence at the trial or proceeding.

25 (j) Any exculpatory evidence.

1           **(3)** WHAT A PERSON SUBJECT TO THIS CHAPTER MUST DISCLOSE TO THE PROSECUTING  
2 ATTORNEY. Upon demand, a person who is subject to this chapter or his or her attorney  
3 shall disclose to the prosecuting attorney, and permit the prosecuting attorney to  
4 inspect and copy or photograph, all of the following materials and information, if the  
5 material or information is within the possession, custody, or control of the person who  
6 is subject to this chapter or his or her attorney:

7           (a) A list of all witnesses, other than the person who is subject to this chapter,  
8 whom the person who is subject to this chapter intends to call at the trial or  
9 proceeding, together with their addresses. This paragraph does not apply to rebuttal  
10 witnesses or witnesses called for impeachment only.

11           (b) Any relevant written or recorded statements of a witness listed under par.  
12 (a), including any reports prepared in accordance with s. 980.031 (5).

13           (c) The criminal record of a witness listed under par. (a) if the criminal record  
14 is known to the attorney for the person who is subject to this chapter.

15           (d) The results of any physical or mental examination or any scientific or  
16 psychological test, instrument, experiment, or comparison that the person who is  
17 subject to this chapter intends to offer in evidence at the trial or proceeding, and any  
18 raw data that were collected, used, or considered in any manner as part of the  
19 examination, test, instrument, experiment, or comparison.

20           (e) Any physical or documentary evidence that the person who is subject to this  
21 chapter intends to offer in evidence at the trial or proceeding.

22           **(3m)** WHEN DISCLOSURE MUST BE MADE. A party required to make a disclosure  
23 under this section shall do so within a reasonable time after the probable cause  
24 hearing and within a reasonable time before a trial under s. 980.05, if the other  
25 party's demand is made in connection with a trial. If the demand is made in

1 connection with a proceeding under s. 980.08 or 980.09 (3), the party shall make the  
2 disclosure within a reasonable time before the start of that proceeding.

3 **(4) COMMENT OR INSTRUCTION ON FAILURE TO CALL WITNESS.** No comment or  
4 instruction regarding the failure to call a witness at the trial may be made or given  
5 if the sole basis for the comment or instruction is the fact that the name of the witness  
6 appears upon a list furnished under this section.

7 **(5) TESTING OR ANALYSIS OF EVIDENCE.** On motion of a party, the court may order  
8 the production of any item of evidence or raw data that is intended to be introduced  
9 at the trial for testing or analysis under such terms and conditions as the court  
10 prescribes.

11 **(6) PROTECTIVE ORDER.** Upon motion of a party, the court may at any time order  
12 that discovery, inspection, or the listing of witnesses required under this section be  
13 denied, restricted, or deferred, or make other appropriate orders. If the prosecuting  
14 attorney or the attorney for a person subject to this chapter certifies that listing a  
15 witness under sub. (2) (e) or (3) (a) may subject the witness or others to physical or  
16 economic harm or coercion, the court may order that the deposition of the witness be  
17 taken under s. 967.04 (2) to (6). The name of the witness need not be divulged prior  
18 to the taking of such deposition. If the witness becomes unavailable or changes his  
19 or her testimony, the deposition shall be admissible at trial as substantive evidence.

20 **(7) IN CAMERA PROCEEDINGS.** Either party may move for an in camera inspection  
21 of any document required to be disclosed under sub. (2) or (3) for the purpose of  
22 masking or deleting any material that is not relevant to the case being tried. The  
23 court shall mask or delete any irrelevant material.

24 **(8) CONTINUING DUTY TO DISCLOSE.** If, after complying with a requirement of this  
25 section, and before or during trial, a party discovers additional material or the names

1 of additional witnesses requested that are subject to discovery, inspection, or  
2 production under this section, the party shall promptly notify the other party of the  
3 existence of the additional material or names.

4 **(9) SANCTIONS FOR FAILURE TO COMPLY.** (a) The court shall exclude any witness  
5 not listed or evidence not presented for inspection, copying, or photographing  
6 required by this section, unless good cause is shown for failure to comply. The court  
7 may in appropriate cases grant the opposing party a recess or a continuance.

8 (b) In addition to or in place of any sanction specified in par. (a), a court may,  
9 subject to sub. (4), advise the jury of any failure or refusal to disclose material or  
10 information required to be disclosed under sub. (2) or (3), or of any untimely  
11 disclosure of material or information required to be disclosed under sub. (2) or (3).

12 **(10) PAYMENT OF PHOTOCOPY COSTS IN CASES INVOLVING INDIGENT RESPONDENTS.**  
13 When the state public defender or a private attorney appointed under s. 977.08  
14 requests photocopies of any item that is discoverable under this section, the state  
15 public defender shall pay any fee charged for the photocopies from the appropriation  
16 under s. 20.550 (1) (a). If the person providing photocopies under this section charges  
17 the state public defender a fee for the photocopies, the fee may not exceed the actual,  
18 necessary, and direct cost of photocopying.

19 **(11) EXCLUSIVE METHOD OF DISCOVERY.** Chapter 804 does not apply to  
20 proceedings under this chapter. This section provides the only methods of obtaining  
21 discovery and inspection in proceedings under this chapter.

22 **SECTION 94.** 980.038 of the statutes is created to read:

23 **980.038 Miscellaneous procedural provisions. (1) MOTIONS CHALLENGING**  
24 **JURISDICTION OR COMPETENCY OF COURT OR TIMELINESS OF PETITION.** (a) A motion  
25 challenging the jurisdiction or competency of the court or the timeliness of a petition

1 filed under s. 980.02 shall be filed within 30 days after the court holds the probable  
2 cause hearing under s. 980.04 (2). Failure to file a motion within the time specified  
3 in this paragraph waives the right to challenge the jurisdiction or competency of the  
4 court or the timeliness of a petition filed under s. 980.02.

5 (b) Notwithstanding s. 801.11, a court may exercise personal jurisdiction over  
6 a person who is the subject of a petition filed under s. 980.02 even though the person  
7 is not served as provided under s. 801.11 (1) or (2) with a verified petition and  
8 summons or with an order for detention under s. 980.04 (1) and the person has not  
9 had a probable cause hearing under s. 980.04 (2).

10 **(2) EVIDENCE OF REFUSAL TO PARTICIPATE IN EXAMINATION.** (a) At any hearing  
11 under this chapter, the state may present evidence or comment on evidence that a  
12 person who is the subject of a petition filed under s. 980.02 or a person who has been  
13 committed under this chapter refused to participate in an examination of his or her  
14 mental condition that was being conducted under this chapter or that was conducted  
15 for the purpose of evaluating whether to file a petition before the petition under s.  
16 980.02 was filed.

17 (b) A licensed physician, licensed psychologist, or other mental health  
18 professional may indicate in any written report that he or she prepares in connection  
19 with a proceeding under this chapter that the person whom he or she examined  
20 refused to participate in the examination.

21 **(3) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS.** Unless good cause to  
22 the contrary is shown, proceedings under ss. 980.04 (2) (a) and 980.08 (7) (d) may be  
23 conducted by telephone or audiovisual means, if available. If the proceedings are  
24 required to be reported under SCR 71.02 (2), the proceedings shall be reported by a  
25 court reporter who is in simultaneous voice communication with all parties to the

1 proceeding. Regardless of the physical location of any party to the telephone call, any  
2 action taken by the court or any party has the same effect as if made in open court.  
3 A proceeding under this subsection shall be conducted in a courtroom or other place  
4 reasonably accessible to the public. Simultaneous access to the proceeding shall be  
5 provided to a person entitled to attend by means of a loudspeaker or, upon request  
6 to the court, by making the person party to the telephone call without charge.

7 **(4) MOTIONS FOR POSTCOMMITMENT RELIEF; APPEAL.** (a) A motion for  
8 postcommitment relief by a person committed under s. 980.06 shall be made in the  
9 time and manner provided in ss. 809.30 and 809.40. An appeal by a person who has  
10 been committed under s. 980.06 from a final order under s. 980.06, 980.08, or 980.09  
11 or from an order denying a motion for postcommitment relief or from both shall be  
12 taken in the time and manner provided in ss. 808.04 (3), 809.30, and 809.40. If a  
13 person is seeking relief from an order of commitment under s. 980.06, the person  
14 shall file a motion for postcommitment relief in the trial court prior to an appeal  
15 unless the grounds for seeking relief are sufficiency of the evidence or issues  
16 previously raised.

17 (b) An appeal by the state from a final judgment or order under this chapter  
18 may be taken to the court of appeals within the time specified in s. 808.04 (4) and in  
19 the manner provided for civil appeals under chs. 808 and 809.

20 **(5) FAILURE TO COMPLY WITH TIME LIMITS; EFFECT.** Failure to comply with any time  
21 limit specified in this chapter does not deprive the circuit court of personal or subject  
22 matter jurisdiction or of competency to exercise that jurisdiction. Failure to comply  
23 with any time limit specified in this chapter is not grounds for an appeal or grounds  
24 to vacate any order, judgment, or commitment issued or entered under this chapter.

1 Failure to object to a period of delay or a continuance waives the time limit that is  
2 the subject of the period of delay or continuance.

3 **(6)** ERRORS AND DEFECTS NOT AFFECTING SUBSTANTIAL RIGHTS. The court shall, in  
4 every stage of a proceeding under this chapter, disregard any error or defect in the  
5 pleadings or proceedings that does not affect the substantial rights of either party.

6 **SECTION 95.** 980.04 (1) of the statutes is amended to read:

7 980.04 **(1)** Upon the filing of a petition under s. 980.02, the court shall review  
8 the petition to determine whether to issue an order for detention of the person who  
9 is the subject of the petition. The person shall be detained only if there is probable  
10 cause to believe that the person is eligible for commitment under s. 980.05 (5). A  
11 person detained under this subsection shall be held in a facility approved by the  
12 department. If the person is serving a sentence of imprisonment, is in a secured  
13 correctional facility, as defined in s. 938.02 (15m), a secured child caring institution,  
14 as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p),  
15 or is committed to institutional care, and the court orders detention under this  
16 subsection, the court shall order that the person be transferred to a detention facility  
17 approved by the department. A detention order under this subsection remains in  
18 effect until the person is discharged petition is dismissed after a hearing under sub.  
19 (3) or after a trial under s. 980.05 (5) or until the effective date of a commitment order  
20 under s. 980.06, whichever is applicable.

21 **SECTION 96.** 980.04 (2) of the statutes is renumbered 980.04 (2) (a) and  
22 amended to read:

23 980.04 **(2)** (a) Whenever a petition is filed under s. 980.02, the court shall hold  
24 a hearing to determine whether there is probable cause to believe that the person  
25 named in the petition is a sexually violent person. ~~If the person named in the petition~~



1 ~~is in custody, the court shall hold the probable cause hearing within 72 hours after~~  
2 ~~the petition is filed, excluding Saturdays, Sundays and legal holidays. If the person~~  
3 ~~named in the petition is not in custody~~

4 (b) 1. Except as provided in subd. 2., the court shall hold the probable cause  
5 hearing within a reasonable time 30 days, excluding Saturdays, Sundays, and legal  
6 holidays, after the filing of the petition, unless that time is extended by the court for  
7 good cause shown upon its own motion, the motion of any party, or the stipulation  
8 of the parties.

9 **SECTION 97.** 980.04 (2) (b) 2. of the statutes is created to read:

10 980.04 **(2)** (b) 2. If the person named in the petition is in custody under a  
11 sentence, dispositional order, or commitment and the probable cause hearing will be  
12 held after the date on which the person is scheduled to be released or discharged from  
13 the sentence, dispositional order, or commitment, the probable cause hearing under  
14 par. (a) shall be held no later than 10 days after the person's scheduled release or  
15 discharge date, excluding Saturdays, Sundays, and legal holidays, unless that time  
16 is extended by the court for good cause shown upon its own motion, the motion of any  
17 party, or the stipulation of the parties.

18 **SECTION 98.** 980.04 (3) of the statutes is amended to read:

19 980.04 **(3)** If the court determines after a hearing that there is probable cause  
20 to believe that the person named in the petition is a sexually violent person, the court  
21 shall order that the person be taken into custody if he or she is not in custody and  
22 shall order the person to be transferred within a reasonable time to an appropriate  
23 facility specified by the department for an evaluation by the department as to  
24 whether the person is a sexually violent person. If the court determines that

1 probable cause does not exist to believe that the person is a sexually violent person,  
2 the court shall dismiss the petition.

3 **SECTION 99.** 980.04 (5) of the statutes is amended to read:

4 980.04 (5) If the person named in the petition claims or appears to be indigent,  
5 the court shall, prior to the probable cause hearing under sub. (2) (a), refer the person  
6 to the authority for indigency determinations under s. 977.07 (1) and, if applicable,  
7 the appointment of counsel.

8 **SECTION 100.** 980.05 (1) of the statutes is amended to read:

9 980.05 (1) A trial to determine whether the person who is the subject of a  
10 petition under s. 980.02 is a sexually violent person shall commence no later than 45  
11 90 days after the date of the probable cause hearing under s. 980.04 (2) (a). The court  
12 may grant ~~a continuance~~ one or more continuances of the trial date for good cause  
13 upon its own motion, the motion of any party or the stipulation of the parties.

14 **SECTION 101.** 980.05 (1m) of the statutes is repealed.

15 **SECTION 102.** 980.05 (2) of the statutes is amended to read:

16 980.05 (2) The person who is the subject of the petition, the person's attorney,  
17 ~~or the department of justice or the district attorney~~ petitioner may request that a  
18 trial under this section be to a jury of 12. A request for a jury trial under this  
19 subsection shall be made within 10 days after the probable cause hearing under s.  
20 980.04 (2) (a). If no request is made, the trial shall be to the court. The person, the  
21 person's attorney, ~~or the district attorney or department of justice, whichever is~~  
22 ~~applicable,~~ petitioner may withdraw his, her, or its request for a jury trial if the 2  
23 persons who did not make the request consent to the withdrawal.

24 **SECTION 103.** 980.05 (2m) of the statutes is created to read:

1           980.05 **(2m)** (a) At a jury trial under this section, juries shall be selected and  
2       treated in the same manner as they are selected and treated in civil actions in circuit  
3       court, except that, notwithstanding s. 805.08 (3), each party shall be entitled to 4  
4       peremptory challenges or, if the court orders additional jurors to be selected under  
5       s. 805.08 (2), to 5 peremptory challenges. A party may waive in advance any or all  
6       of its peremptory challenges and the number of jurors called under par. (b) shall be  
7       reduced by this number.

8           (b) The number of jurors selected shall be the number prescribed in sub. (2),  
9       unless a lesser number has been stipulated to and approved under par. (c) or the court  
10      orders that additional jurors be selected. That number of jurors, plus the number  
11      of peremptory challenges available to all of the parties, shall be called initially and  
12      maintained in the jury box by calling others to replace jurors excused for cause until  
13      all jurors have been examined. The parties shall exercise in their order, the state  
14      beginning, the peremptory challenges available to them, and if any party declines to  
15      challenge, the challenge shall be made by the clerk by lot.

16          (c) At any time before the verdict in a jury trial under this section, the parties  
17      may stipulate in writing or by statement in open court, on the record, with the  
18      approval of the court, that the jury shall consist of any number less than the number  
19      prescribed in sub. (2).

20           **SECTION 104.** 980.05 (3) (a) of the statutes is amended to read:

21           980.05 **(3)** (a) At a trial on a petition under this chapter, the petitioner has the  
22      burden of proving ~~the allegations in the petition~~ beyond a reasonable doubt that the  
23      person who is the subject of the petition is a sexually violent person.

24           **SECTION 105.** 980.05 (3) (b) of the statutes is amended to read:

1           980.05 (3) (b) If the state alleges that the sexually violent offense or act that  
2 forms the basis for the petition was an act that was sexually motivated as provided  
3 in s. 980.01 (6) (b) or (bm), the state is required to prove beyond a reasonable doubt  
4 that the alleged sexually violent act was sexually motivated.

5           **SECTION 106.** 980.07 (title) of the statutes is amended to read:

6           **980.07 (title) Periodic reexamination and treatment progress; report**  
7 **from the department.**

8           **SECTION 107.** 980.07 (1) of the statutes is amended to read:

9           980.07 (1) If a person ~~has been~~ is committed under s. 980.06 and has not been  
10 discharged under s. 980.09 (4), the department shall appoint an examiner to conduct  
11 an examination a reexamination of his or her the person's mental condition within  
12 6 12 months after an the date of the initial commitment order under s. 980.06 and  
13 again thereafter at least once each 12 months ~~for the purpose of determining to~~  
14 determine whether the person has made sufficient progress for the court to consider  
15 whether the person should be placed on supervised release or discharged. The  
16 examiner shall apply the criteria under s. 980.08 (4) (cg) when considering if the  
17 person should be placed on supervised release and shall apply the criteria under s.  
18 980.09 (3) when considering if the person should be discharged. At the time of a  
19 reexamination under this section, the person who has been committed may retain  
20 or seek to have the court appoint an examiner as provided under s. ~~980.03 (4)~~ 980.031  
21 (3), except that the court is not required to appoint an examiner if supervised release  
22 or discharge is supported by the examination conducted by the examiner appointed  
23 by the department. The county shall pay the costs of an examiner appointed by the  
24 court as provided under s. 51.20 (18) (a).

25           **SECTION 108.** 980.07 (2) of the statutes is amended to read:

1           980.07 **(2)** Any examiner conducting ~~an examination~~ a reexamination under  
2   this section sub. (1) shall prepare a written report of the ~~examination~~ reexamination  
3   no later than 30 days after the date of the ~~examination~~ reexamination. The examiner  
4   shall ~~place a copy of the report in the person's medical records and~~ shall provide a  
5   copy of the report to the ~~court that committed the person under s. 980.06~~ department.

6           **SECTION 109.** 980.07 (3) of the statutes is amended to read:

7           980.07 **(3)** Notwithstanding sub. (1), the court that committed a person under  
8   s. 980.06 may order a reexamination of the person at any time during the period in  
9   which the person is subject to the commitment order. Any reexamination ordered  
10 under this subsection shall conform to sub. (1).

11          **SECTION 110.** 980.07 (4), (5) and (6) of the statutes are created to read:

12          980.07 **(4)** At any reexamination under sub. (1), the treating professional shall  
13   prepare a treatment progress report. The treating professional shall provide a copy  
14   of the treatment progress report to the department. The treatment progress report  
15   shall consider all of the following:

16          (a) The specific factors associated with the person's risk for committing another  
17   sexually violent offense.

18          (b) Whether the person has made significant progress in treatment or has  
19   refused treatment.

20          (c) The ongoing treatment needs of the person.

21          (d) Any specialized needs or conditions associated with the person that must  
22   be considered in future treatment planning.

23          **(5)** Any examiners under sub. (1) and treating professionals under sub. (4) shall  
24   have reasonable access to the person for purposes of reexamination, to the person's

1 past and present treatment records, as defined in s. 51.30 (1) (b), and to the person's  
2 patient health care records, as provided under s. 146.82 (2) (c).

3 **(6)** The department shall submit an annual report comprised of the  
4 reexamination report under sub. (1) and the treatment progress report under sub.  
5 (4) to the court that committed the person under s. 980.06. A copy of the annual  
6 report shall be placed in the person's treatment records. The department shall  
7 provide a copy of the annual report to the person committed under s. 980.06, the  
8 department of justice, and the district attorney, if applicable. The court shall provide  
9 a copy of the annual report to the person's attorney as soon as he or she is retained  
10 or appointed.

11 **SECTION 110m.** 980.07 (6m) of the statutes is created to read:

12 980.07 **(6m)** If a person committed under s. 980.06 is incarcerated at a county  
13 jail, state correctional institution, or federal correction institution for a new criminal  
14 charge or conviction or because his or her parole was revoked, any reporting  
15 requirement under sub. (1), (4), or (6) does not apply during the incarceration period.  
16 A court may order a reexamination of the person under sub. (3) if the courts finds  
17 reexamination to be necessary. The schedule for reporting established under sub. (1)  
18 shall resume upon the release of the person.

19 **SECTION 111.** 980.075 of the statutes is created to read:

20 **980.075 Patient petition process.** **(1)** When the department submits its  
21 report to the court under s. 980.07 (6), the person who has been committed under s.  
22 980.06 may retain or have the court appoint an attorney as provided in s. 980.03 (2)  
23 (a).

24 **(1m)** (a) When the department provides a copy of the report under s. 980.07 (6)  
25 to the person who has been committed under s. 980.06, the department shall provide

1 to the person a standardized petition form for supervised release under s. 980.08 and  
2 a standardized petition form for discharge under s. 980.09.

3 (b) The department shall, after consulting with the department of justice and  
4 the state public defender, develop the standardized petition forms required under  
5 par. (a).

6 **(2)** (a) Within 30 days after the department submits its report to the court  
7 under s. 980.07 (6), the person who has been committed under s. 980.06 or his or her  
8 attorney may submit one of the completed forms provided under sub. (1m) to the  
9 court to initiate either a petition for supervised release or a petition for discharge.

10 (b) If no completed petition is filed in a timely manner under par. (a), the person  
11 who has been committed under s. 980.06 will remain committed and the person's  
12 placement at a facility described under s. 980.065 or the person's supervised release  
13 status under s. 980.08 remains in effect without review by the court.

14 **(3)** If the person files a petition for discharge under s. 980.09 without counsel,  
15 the court shall serve a copy of the petition and any supporting documents on the  
16 district attorney or department of justice, whichever is applicable. If the person  
17 petitions for discharge under s. 980.09 through counsel, his or her attorney shall  
18 serve the district attorney or department of justice, whichever is applicable.

19 **(4)** (a) The petitioner may use experts or professional persons to support his  
20 or her petition.

21 (b) The district attorney or the department of justice may use experts or  
22 professional persons to support or oppose any petition.

23 **(5)** Subject to s. 980.03 (2) (a), before proceeding under s. 980.08 or 980.09 but  
24 as soon as circumstances permit, the court shall refer the matter to the authority for



1 indigency determinations under s. 977.07 (1) and appointment of counsel under s.  
2 977.05 (4) (j) if the person is not represented by counsel.

3 (6) At any time before a hearing under s. 980.08 or 980.09, the department may  
4 file a supplemental report if the department determines that court should have  
5 additional information.

6 **SECTION 112.** 980.08 (title) of the statutes is repealed and recreated to read:

7 **980.08 (title) Supervised release; procedures, implementation,**  
8 **revocation.**

9 **SECTION 113.** 980.08 (1) of the statutes is amended to read:

10 980.08 (1) Any person who is committed under s. 980.06 may petition the  
11 committing court to modify its order by authorizing supervised release if at least 18  
12 12 months have elapsed since the initial commitment order was entered or at least  
13 6 12 months have elapsed since the most recent release petition was denied or the  
14 most recent order for supervised release was revoked. The director of the facility at  
15 which the person is placed may file a petition under this subsection on the person's  
16 behalf at any time.

17 **SECTION 114.** 980.08 (3) of the statutes is amended to read:

18 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint  
19 one or more examiners having the specialized knowledge determined by the court to  
20 be appropriate, who shall examine the person and furnish a written report of the  
21 examination to the court within 30 days after appointment. The examiners shall  
22 have reasonable access to the person for purposes of examination and to the person's  
23 past and present treatment records, as defined in s. 51.30 (1) (b), and patient health  
24 care records, as provided under s. 146.82 (2) (c). If any such examiner believes that  
25 the person is appropriate for supervised release under the criteria specified in sub.

1 (4) ~~(b)~~ (cg), the examiner shall report on the type of treatment and services that the  
2 person may need while in the community on supervised release. The county shall  
3 pay the costs of an examiner appointed under this subsection as provided under s.  
4 51.20 (18) (a).

5 **SECTION 115.** 980.08 (4) (a) of the statutes is amended to read:

6 980.08 **(4)** (a) The court, without a jury, shall hear the petition within 30 days  
7 after the report of the court-appointed examiner is filed with the court, unless the  
8 petitioner ~~waives~~ court for good cause extends this time limit. Expenses of  
9 proceedings under this subsection shall be paid as provided under s. 51.20 (18) (b),  
10 (c), and (d).

11 **SECTION 116.** 980.08 (4) (b) of the statutes is repealed.

12 **SECTION 117.** 980.08 (4) (c) of the statutes is amended to read:

13 980.08 **(4)** (c) In making a decision under par. ~~(b)~~ (cg), the court may consider,  
14 without limitation because of enumeration, the nature and circumstances of the  
15 behavior that was the basis of the allegation in the petition under s. 980.02 (2) (a),  
16 the person's mental history and present mental condition, where the person will live,  
17 how the person will support himself or herself, and what arrangements are available  
18 to ensure that the person has access to and will participate in necessary treatment,  
19 including pharmacological treatment using an antiandrogen or the chemical  
20 equivalent of an antiandrogen if the person is a serious child sex offender. A decision  
21 under par. ~~(b)~~ (cg) on a petition filed by a person who is a serious child sex offender  
22 may not be made based on the fact that the person is a proper subject for  
23 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
24 antiandrogen or on the fact that the person is willing to participate in

1 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
2 antiandrogen.

3 **SECTION 118.** 980.08 (4) (cg) of the statutes is created to read:

4 980.08 (4) (cg) The court may not authorize supervised release unless, based  
5 on all of the reports, trial records, and evidence presented, the court finds that all of  
6 the following criteria are met:

7 1. The person has made significant progress in treatment and the person's  
8 progress can be sustained while on supervised release.

9 2. It is substantially probable that the person will not engage in an act of sexual  
10 violence while on supervised release.

11 3. Treatment that meets the person's needs and a qualified provider of the  
12 treatment are reasonably available.

13 4. The person can be reasonably expected to comply with his or her treatment  
14 requirements and with all of his or her conditions or rules of supervised release that  
15 are imposed by the court or by the department.

16 5. A reasonable level of resources can provide for the level of residential  
17 placement, supervision, and ongoing treatment needs that are required for the safe  
18 management of the person while on supervised release.

19 **SECTION 119.** 980.08 (4) (cm) of the statutes is created to read:

20 980.08 (4) (cm) If the court finds that all of the criteria in par. (cg) are met, the  
21 court shall select a county to prepare a report under par. (e). Unless the court has  
22 good cause to select another county, the court shall select the person's county of  
23 residence as determined by the department under s. 980.105. The court may not  
24 select a county where there is a facility in which persons committed to institutional

1 care under this chapter are placed unless that county is also that person's county of  
2 residence.

3 **SECTION 120.** 980.08 (4) (d), (e), (f) and (g) of the statutes are created to read:

4 980.08 (4) (d) The court shall authorize the petitioner, the person's attorney,  
5 the district attorney, any law enforcement agency in the county of intended  
6 placement, and any local governmental unit in the county of intended placement to  
7 submit prospective residential options for community placement to the department  
8 within 60 days following the selection of the county under par. (cm).

9 (e) The court shall order the county department under s. 51.42 in the county  
10 of intended placement to prepare a report, either independently or with the  
11 department of health and family services, identifying prospective residential options  
12 for community placement. In identifying prospective residential options, the county  
13 department shall consider the proximity of any potential placement to the residence  
14 of other persons on supervised release and to the residence of persons who are in the  
15 custody of the department of corrections and regarding whom a sex offender  
16 notification bulletin has been issued to law enforcement agencies under s. 301.46  
17 (2m) (a) or (am). The county department shall submit its report to the department  
18 within 60 days following the court order.

19 (f) The court shall direct the department to use any submissions under par. (d),  
20 the report submitted under par. (e), or other residential options identified by the  
21 department to prepare a supervised release plan for the person. The department  
22 shall prepare a supervised release plan that identifies the proposed residence. The  
23 plan shall address the person's need, if any, for supervision, counseling, medication,  
24 community support services, residential services, vocational services, and alcohol or  
25 other drug abuse treatment. The supervised release plan shall be submitted to the

1 court within 90 days of the finding under par. (cg). The court may grant extensions  
2 of this time period for good cause.

3 (g) The court shall review the plan submitted by the department under par.  
4 (cm). If the details of the plan adequately meet the treatment needs of the individual  
5 and the safety needs of the community, then the court shall approve the plan and  
6 determine that supervised release is appropriate. If the details of the plan do not  
7 adequately meet the treatment needs of the individual or the safety needs of the  
8 community, then the court shall determine that supervised release is not appropriate  
9 or direct the preparation of another supervised release plan to be considered by the  
10 court under this paragraph.

11 **SECTION 121.** 980.08 (5) of the statutes is repealed.

12 **SECTION 122.** 980.08 (6m) of the statutes is amended to read:

13 980.08 **(6m)** An order for supervised release places the person in the custody  
14 and control of the department. The department shall arrange for control, care and  
15 treatment of the person in the least restrictive manner consistent with the  
16 requirements of the person and in accordance with the plan for supervised release  
17 approved by the court under sub. ~~(5)~~ (4) (g). A person on supervised release is subject  
18 to the conditions set by the court and to the rules of the department. Within 10 days  
19 of imposing a rule, the department shall file with the court any additional rule of  
20 supervision not inconsistent with the rules or conditions imposed by the court. If the  
21 department wants to change a rule or condition of supervision imposed by the court,  
22 the department must obtain the court's approval. Before a person is placed on  
23 supervised release by the court under this section, the court shall so notify the  
24 municipal police department and county sheriff for the municipality and county in  
25 which the person will be residing. The notification requirement under this

1 subsection does not apply if a municipal police department or county sheriff submits  
2 to the court a written statement waiving the right to be notified.

3 (7) (a) If the department alleges believes that a released person on supervised  
4 release, or awaiting placement on supervised release, has violated, or threatened to  
5 violate, any condition or rule , or that of supervised release, the department may  
6 petition for revocation of the order granting supervised release as described in par.  
7 (c) or may detain the person.

8 (b) If the department believes that a person on supervised release, or awaiting  
9 placement on supervised release, is a threat to the safety of others requires that  
10 supervised release be revoked, he or she may be taken into custody under the rules  
11 of the department. The department shall submit a statement showing probable  
12 cause of the detention and a, the department shall detain the person and petition to  
13 revoke for revocation of the order for granting supervised release to as described in  
14 par. (c).

15 (c) If the department concludes that the order granting supervised release  
16 should be revoked, it shall file with the committing court a statement alleging the  
17 violation and or threat of a violation and a petition to revoke the order for supervised  
18 release and provide a copy of each to the regional office of the state public defender  
19 responsible for handling cases in the county where the committing court is located.  
20 If the department has detained the person under par. (a) or (b), the department shall  
21 file the statement and the petition and provide them to the regional office of the state  
22 public defender within 72 hours after the detention, excluding Saturdays, Sundays  
23 and legal holidays. Pending the revocation hearing, the department may detain the  
24 person in a jail or a facility described under s. 980.065. The court shall refer the  
25 matter to the authority for indigency determinations under s. 977.07 (1) and

1 appointment of counsel under s. 977.05 (4) (j). The determination of indigency and  
2 the appointment of counsel shall be done as soon as circumstances permit.

3 (d) The court shall hear the petition within 30 days, unless the hearing or time  
4 deadline is waived by the detained person. A final decision on the petition to revoke  
5 the order for supervised release shall be made within 90 days of the filing. Pending  
6 the revocation hearing, the department may detain the person in a jail or in a  
7 hospital, center or facility specified by s. 51.15 (2). The state has the burden of  
8 proving the county jail or return him or her to institutional care.

9 (8) (a) If the court finds after a hearing, by clear and convincing evidence, that  
10 any rule or condition of release has been violated, or and the court finds that the  
11 violation of the rule or condition merits the revocation of the order granting  
12 supervised release, the court may revoke the order for supervised release and order  
13 that the person be placed in institutional care. The court may consider alternatives  
14 to revocation. The person shall remain in institutional care until the person is  
15 discharged from the commitment under s. 980.09 or is placed again on supervised  
16 release under sub. (4) (g).

17 (b) If the court finds after a hearing, by clear and convincing evidence, that the  
18 safety of others requires that supervised release be revoked. If the court determines  
19 after hearing that any rule or condition of release has been violated, or that the safety  
20 of others requires that supervised release be revoked, it may shall revoke the order  
21 for supervised release and order that the released person be placed in an appropriate  
22 institution institutional care. The person shall remain in institutional care until the  
23 person is discharged from the commitment under s. 980.09 or until again is placed  
24 on supervised release under this section sub. (4) (g).

25 **SECTION 123.** 980.09 of the statutes is repealed and recreated to read:



1           **980.09 Petition for discharge.** A committed person may petition the  
2 committing court for discharge at any time. The court shall deny the petition under  
3 this section without a hearing unless the petition alleges facts from which the court  
4 or jury may conclude the person's condition has changed since the date of his or her  
5 initial commitment order so that the person does not meet the criteria for  
6 commitment as a sexually violent person.

7           **(2)** The court shall review the petition within 30 days and may hold a hearing  
8 to determine if it contains facts from which the court or jury may conclude that the  
9 person does not meet the criteria for commitment as a sexually violent person. In  
10 determining under this subsection whether facts exist that might warrant such a  
11 conclusion, the court shall consider any current or past reports filed under s. 980.07,  
12 relevant facts in the petition and in the state's written response, arguments of  
13 counsel, and any supporting documentation provided by the person or the state. If  
14 the court determines that the petition does not contain facts from which a court or  
15 jury may conclude that the person does not meet the criteria for commitment, the  
16 court shall deny the petition. If the court determines that facts exist from which a  
17 court or jury could conclude the person does not meet criteria for commitment the  
18 court shall set the matter for hearing.

19           **(3)** The court shall hold a hearing within 90 days of the determination that the  
20 petition contains facts from which the court or jury may conclude that the person  
21 does not meet the criteria for commitment as a sexually violent person. The state has  
22 the burden of proving by clear and convincing evidence that the person meets the  
23 criteria for commitment as a sexually violent person.

24           **(4)** If the court or jury is satisfied that the state has not met its burden of proof  
25 under sub. (3), the petitioner shall be discharged from the custody of the department.

1 If the court or jury is satisfied that the state has met its burden of proof under sub.  
2 (3), the court may proceed under s. 980.08 (4) to determine whether to modify the  
3 petitioner's existing commitment order by authorizing supervised release.

4 **SECTION 124.** 980.095 of the statutes is created to read:

5 **980.095 Procedures for discharge hearings. (1) USE OF JURIES.** (a) The  
6 district attorney or the department of justice, whichever filed the original petition,  
7 or the petitioner or his or her attorney may request that a hearing under s. 980.09  
8 (3) be to a jury of 6. A jury trial is deemed waived unless it is demanded within 10  
9 days of the filing of the petition for discharge.

10 (b) Juries shall be selected and treated in the same manner as they are selected  
11 and treated in civil actions in circuit court. The number of jurors prescribed in par.  
12 (a), plus the number of peremptory challenges available to all of the parties, shall be  
13 called initially and maintained in the jury box by calling others to replace jurors  
14 excused for cause until all jurors have been examined. The parties shall exercise in  
15 their order, the state beginning, the peremptory challenges available to them, and  
16 if any party declines to challenge, the challenge shall be made by the clerk by lot.

17 (c) No verdict shall be valid or received unless at least 5 of the jurors agree to  
18 it.

19 **(2) POST VERDICT MOTIONS.** Motions after verdict may be made without further  
20 notice upon receipt of the verdict.

21 **(3) APPEALS.** Any party may appeal an order under this subsection as a final  
22 order under chs. 808 and 809.

23 **SECTION 125.** 980.10 of the statutes is repealed.

24 **SECTION 126.** 980.101 (2) (a) of the statutes is amended to read:

1           980.101 **(2)** (a) If the sexually violent offense was the sole basis for the  
2           allegation under s. 980.02 (2) (a) and there are no other judgments relating to a  
3           sexually violent offense committed by the person, the court shall reverse, set aside,  
4           or vacate the judgment under s. 980.05 (5) that the person is a sexually violent  
5           person, vacate the commitment order, and discharge the person from the custody or  
6           supervision of the department.

7           **SECTION 127.** 980.11 (2) (intro.) of the statutes is amended to read:

8           980.11 **(2)** (intro.) If the court places a person on supervised release under s.  
9           980.08 (4) or discharges a person under s. 980.09 or ~~980.10 (4)~~, the department shall  
10          do all of the following:

11          **SECTION 128.** 980.12 (1) of the statutes is amended to read:

12          980.12 **(1)** Except as provided in ss. 980.03 ~~(4)~~ 980.031 (3) and 980.08 ~~(3)~~ 980.07  
13          (1), the department shall pay from the appropriations under s. 20.435 (2) (a) and (bm)  
14          for all costs relating to the evaluation, treatment, and care of persons evaluated or  
15          committed under this chapter.

16          **SECTION 129.** 980.14 (title) of the statutes is created to read:

17          **980.14 (title) Immunity.**

18          **SECTION 130.** 980.14 (1) of the statutes is created to read:

19          980.14 **(1)** In this section, “agency” means the department of corrections, the  
20          department of health and family services, the department of justice, or a district  
21          attorney.

22          **SECTION 131. Initial applicability.**

23          (1) This act first applies to reviews regarding detention and probable cause  
24          hearings under section 980.04 of the statutes, as affected by this act, and trials under  
25          section 980.05 of the statutes, as affected by this act, that are based on a petition filed

1 under s. 980.02 of the statutes, as affected by this act, on the effective date of this  
2 subsection.

3 (2) This act first applies to periodic reexaminations conducted under section  
4 980.07 of the statutes, as affected by this act, begun on the effective date of this  
5 subsection and to court proceedings resulting from those reexaminations.

6 (3) This act first applies to proceedings to revoke supervised release under  
7 section 980.08 of the statutes, as affected by this act, that are commenced on the  
8 effective date of this subsection, except that the treatment of section 980.08 (7) of the  
9 statutes, with respect to where a person may be detained while a petition to revoke  
10 supervised release is pending, first applies to a person whose detention commences  
11 on the effective date of this subsection.

12 (4) This act first applies to discharge proceedings commenced on the effective  
13 date of this subsection.

14 **SECTION 132. Effective date.**

15 (1) This act takes effect on the first day of the 2nd month beginning after  
16 publication.

17 (END)